

REMARKS/ARGUMENTS

The Examiner's continued attention to the present application is noted with appreciation. The history of the present application is rather lengthy, the claims having been rejected, then allowed, then again rejected. However, Applicant believes the rejections are traversed, particularly in light of the current amendments to the claims.

In Section 2 of the Office Action dated March 29, 2004, the Examiner noted that claims 42, 49, and 50 were non-elected claims in an amendment filed April 1, 2002. Presumably, that is the reason the Examiner has withdrawn those claims from consideration. However, Applicant inserted those claims for consideration on May 29, 2003 believing they were allowable as dependent claims. The Examiner accepted those insertions in the Office Action dated October 17, 2003. Therefore, although the Examiner is correct in noting that the claims were previously non-elected, subsequent actions rendered the election ineffective. Applicant believes it is improper to cite to that previous election. Therefore, Applicant believes it is improper to withdraw claims 42, 49, and 50 from consideration and requests that they be allowed on the same basis provided for the remaining claims as discussed below.

In Section 4 of the current Office Action, the Examiner rejected claims 41, 43, 48, 52, and 56-59 under 35 U.S.C. § 103(a) as being unpatentable over Veath (U.S. Patent No. 5,125,764). In Section 11, the Examiner rejected claims 60, 62, 66, 68, and 72-75 under 35 U.S.C. § 103(a) as being unpatentable over Veath in view of Arnold (U.S. Patent No. 4,359,127). In Section 20, the Examiner rejected claims 76, 78, 81, 84, 85, 86, and 89-92 under 35 U.S.C. § 103(a) as being unpatentable over Veath in view of Matsushita (U.S. Patent No. 5,325,933). In Section 28, the Examiner rejected claims 93, 95, 98, 100, 101, 103, and 107-109 under 35 U.S.C. § 103(a) as being unpatentable over Veath. Those rejections are traversed.

Applicant has amended claim 41 to correct the size limitation as applying to the vehicle rather than the front wheel. The correction brings claim 41 to the relevant form presented in the Supplemental Amendment of July 1, 2003 which resulted in the allowability of claim 41 in the Office Action of October 17, 2003.

To address the current rejection, Applicant has amended claims 41, 60, and 76 to include the limitation of claims 56, 72, and 89, respectively. With respect to claims 72, 89, and 93, the Examiner, in Sections 11, 20, 28, states that the shape is a matter of design choice (NOTE: although in his discussion the Examiner provided no basis for the rejection of claim 56, Applicant assumes the same basis currently applied to claims 72, 89, and 93 was intended) . Being a choice, however, does not render a design obvious. Absent a motivation to combine references to choose a specific design, obviousness cannot be concluded. The wedge-shaped nose of the vehicle of the present invention is not an arbitrary choice, but rather a design calculated to function in a desired manner as taught in the disclosure. That design is critical for one of the stated functions of the invention which is to push obstacles apart (See lines 5-6, page 17 and lines 10-11, page 19). As noted by the Examiner in Section 4 of the current Office Action, a size or shape modification is considered within the level of ordinary skill in the art if no disclosure is made as to the criticality of such a modification. Here, the criticality of the wedge shape has been disclosed.

The Examiner has not explained why one, in reviewing the prior art, would want to combine a wedge-shaped nose, a triangular wheel base, and a smaller vehicle size, as claimed by Applicant. See, *In re Sang-Su Lee*, 277 F.3d 1338, 1344-45 (Fed. Cir. 2002) (stating that for obviousness determinations, evidence and explanation is required for the citing to a reference of combining references and that conclusory statements without rationale cannot be relied upon). It is more likely that one would not want a wedge shape in a vehicle of limited size (to aid maneuverability in tight areas as claimed) as such a design would minimize a vehicle's carrying capacity (volume). Combining a wedge shape on a triangular wheel base on a limited size vehicle is not only a novel combination but nonobvious as well. Therefore, claims 41, 60, 76, and 93 are believed to be allowable.

Claims 43, 48, 52, and 56-59 are dependent on claim 41, which is believed to be allowable, and so are also believed to be allowable. Claims 62, 66, 68, and 72-75 are dependent on claim 60, which is believed to be allowable, and so are also believed to be allowable. Claims 78, 81, 84, 85, 86, and 89-92 are dependent on claim 76, which is believed to be allowable, and so are also believed to be allowable.

Claims 95, 98, 100, 101, 103, and 107-109 are dependent on claim 93, which is believed to be allowable, and so are also believed to be allowable.

In Sections 5, 6, 7, 8, 9, and 10, the Examiner rejected claims 44, 45, 51, 53, 54, and 55, respectively. The Examiner rejected the claims under 35 U.S.C. § 103(a) as being unpatentable over Veath in view of Bolton et al. (U.S. Patent No. 5,061,748), Atkins (U.S. Patent No. 5,855,386), Carrier (U.S. Patent No. 6,029,750), Forsyth (U.S. Patent No. 4,593,855), Willard (U.S. Patent No. 5,511,599), and Matsushita, respectively. Those claims are dependent on claim 41, which is believed to be allowable, and so are also believed to be allowable.

In Sections 12, 13, 14, 15, 16, 17, 18, and 19, the Examiner rejected claims 61, 63, 64, 65, 67, 69, 70, and 71, respectively. The Examiner rejected the claims under 35 U.S.C. § 103(a) as being unpatentable over Veath in view of Arnold and further in view of Fuller, Bolton et al., Atkins, Fuller (U.S. Patent No. 5,511,599), Carrier, Forsyth, Willard, and Matsushita, respectively. Those claims are dependent on claim 60, which is believed to be allowable, and so are also believed to be allowable.

In Sections 21, 22, 23, 24, 25, 26, and 27, the Examiner rejected claims 77 and 83, 79, 80, 82, 85, 87, and 88, respectively. The Examiner rejected the claims under 35 U.S.C. § 103(a) as being unpatentable over Veath in view of Matsushita and further in view of Fuller, Bolton et al., Atkins, Arnold Carrier, Forsyth, and Willard, respectively. Those claims are dependent on claim 76, which is believed to be allowable, and so are also believed to be allowable.

In Sections 29, 30, 31, 32, 33, 34, 35, and 36, the Examiner rejected claims 94, 96, 97, 99, 102, 104, 105, and 106, respectively. The Examiner rejected the claims under 35 U.S.C. § 103(a) as being unpatentable over Veath in view of Fuller, Bolton et al., Atkins, Arnold, Carrier, Forsyth, Willard, and Matsushita, respectively. Those claims are dependent on claim 93, which is believed to be allowable, and so are also believed to be allowable.

In view of the above amendments and remarks, it is respectfully submitted that all grounds of rejection and objection have been avoided and/or traversed. It is believed that the case is now in condition for allowance and same is respectfully requested.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

Respectfully submitted,

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